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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,916	09/12/2003	Willy Furrer	148505-1	7340

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GEAM - SILICONES - 60SI
IP LEGAL
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PITTSFIELD, MA 01201-3697

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,916

Applicant(s)

FURRER ET AL.

Examiner

Roberto Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 14-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-13 in the reply filed on 8/26/05 is acknowledged.

Information Disclosure Statement

2. Foreign language reference EP 1288235 is considered solely on the basis of applicants' discussion thereof in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the intended scope of the phrase "and the like" cannot be determined. For the purpose of applying prior art, the phrase will be assumed to mean "any other thermoplastic polymer."

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In claim 3 (and claim 5 by dependency), the meaning of "R represents an R radical" is not understood. Furthermore, the definition of R' has not been provided in the claim.

In claim 4, the meaning of the vertical line is not understood; however, this feature appears to be an improperly formatted bond connecting the OH group with an unknown location on the subsequent structure.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Roodvoets (US 3,939,133).

The reference discloses a process of crosslinking polybutadiene using a combination of two peroxide compounds in the presence of vinyl triacetoxysilane and filler at elevated temperature (col. 6, lines 14-18; Table I Examples 1-17), including all claimed limitations. The reference has not reported half-life temperatures; however, the claimed values appear to be inherent because the peroxides used in the reference are of the same type as those of applicants' claims. The reference has not reported the presence or absence of moisture; however, this feature appears to be inherent because

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no attempt to exclude moisture was reported in the reference, and therefore at least some moisture would be present. The burden of proof is shifted to applicants to show that the applied reference does not contain the unreported features.

7. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Dawans et al. (US 4,255,524).

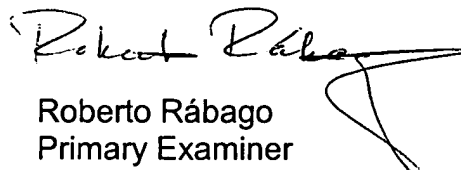
The reference discloses a process of crosslinking polybutadiene using a combination of two peroxide compounds in the presence of vinyl triethoxysilane and filler at elevated temperature (Table 2 Examples 1-3 and 5-9), including all claimed limitations. The reference has not reported half-life temperatures; however, the claimed values appear to be inherent because the peroxides used in the reference are of the same type as those of applicants' claims. The reference has not reported the presence or absence of moisture; however, this feature appears to be inherent because no attempt to exclude moisture was reported in the reference, and therefore at least some moisture would be present. The burden of proof is shifted to applicants to show that the applied reference does not contain the unreported features.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roberto Rábago
Primary Examiner
Art Unit 1713

RR
October 31, 2005